



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-084, C-570-085]

#### **Quartz Surface Products from the People's Republic of China: Initiation of Scope and Circumvention Inquiries of the Antidumping Duty and Countervailing Duty Orders**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is self-initiating a scope inquiry, pursuant to U.S. trade remedy laws, to determine whether imports of quartz surface products (QSP), completed in Malaysia using inputs manufactured in the People's Republic of China (China), are covered by the antidumping duty (AD) and countervailing duty (CVD) orders on QSP from China (collectively, the *Orders*). In addition, in accordance with our regulations, Commerce is also self-initiating a country-wide circumvention inquiry to determine whether imports of QSP, if not covered by the scope of the *Orders*, are nonetheless circumventing the *Orders*, and is aligning both scope and circumvention inquiries in accordance with our regulations.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]

**FOR FURTHER INFORMATION CONTACT:** Ajay Menon at (202) 482-0208, AD/CVD Operations, Office II or Barb Rawdon at (202) 482-0474, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### Background

On April 17, 2018, Cambria Company LLC filed petitions seeking the imposition of AD

and CVD duties on imports of QSP from China.<sup>1</sup> Following Commerce’s affirmative determinations of dumping and countervailable subsidies,<sup>2</sup> and the U.S. International Trade Commission (ITC)’s finding of material injury,<sup>3</sup> Commerce issued the *Orders*.<sup>4</sup>

### Scope of the *Orders*

The products covered by the *Orders* are certain QSP from China, whether finished or unfinished. Such products “consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.*, quartz, quartz powder, cristobalite) as well as a resin binder (*e.g.*, an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the *Orders*. However, the scope of the *Orders* only includes products where the silica content is greater than any other single material, by actual weight.” For a full description of the scope of the *Orders*, *see* the “Scope of the *Orders*,” in the appendix to this notice.

### Statutory and Regulatory Requirements to Initiate Scope and Circumvention Inquiries

Pursuant to 19 CFR 351.225(b), if Commerce “determines from available information that an inquiry is warranted to determine whether a product is covered by the scope of an order,” then Commerce “may initiate a scope inquiry and publish a notice of initiation in the *Federal Register*.”

Furthermore, section 351.226(b) of Commerce’s regulations states that if Commerce “determines from available information that an inquiry is warranted into the question of whether the elements necessary for a circumvention determination under section 781 of the Act

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<sup>1</sup> *See Certain Quartz Surface Products from the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 83 FR 22613 (May 16, 2018); *Certain Quartz Surface Products from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 22618 (May 16, 2018).

<sup>2</sup> *See Certain Quartz Surface Products from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances*, 84 FR 23767 (May 23, 2019); *Certain Quartz Surface Products from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, and Final Affirmative Determination of Critical Circumstances*, 84 FR 23760 (May 23, 2019).

<sup>3</sup> *See Quartz Surface Products from China; Determinations*, 84 FR 32216 (July 5, 2019); *see also Quartz Surface Products from China*, Inv Nos. 701-TA-606 and 731-TA-1416, USITC Pub. 4913 (Final).

<sup>4</sup> *See Certain Quartz Surface Products from the People’s Republic of China: Antidumping and Countervailing Duty Orders*, 84 FR 33053 (July 11, 2019) (*Orders*).

exist,” Commerce “may initiate a circumvention inquiry and publish a notice of initiation in the *Federal Register*.” Section 781(b)(1) of the Act provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding, (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order, (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether or not the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country, (B) the level of research and development in the foreign country, (C) the nature of the production process in the foreign country, (D) the extent of production facilities in the foreign country, and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce’s determination of whether the process of assembly or completion in a third

country is minor or insignificant.<sup>5</sup> Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular circumvention inquiry.<sup>6</sup>

In addition, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping and/or countervailing duty order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

As described below, Commerce is self-initiating concurrent scope and circumvention inquiries.

#### Merchandise Subject to the Scope and Circumvention Inquiries

Commerce has placed information on the administrative record, as attachments to its Initiation Memo, that indicates that certain QSP or QSP inputs produced in China undergo further processing in Malaysia before being exported to the United States.<sup>7</sup> That QSP exported from Malaysia to the United States is the merchandise at issue in both the scope and circumvention inquiry initiations.

#### (1) Available Information Supports Initiation of a Scope Inquiry

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<sup>5</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103-316 (1994) at 893.

<sup>6</sup> See *Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

<sup>7</sup> See Memorandum, "Certain Quartz Surface Products from the People's Republic of China: Initiation of Scope and Circumvention Inquiries of the Antidumping Duty and Countervailing Duty Orders (Initiation Memo). This memo is a public document dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

The scope covers merchandise which “has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the quartz surface products.” Accordingly, Commerce is self-initiating this scope inquiry to determine if QSP or QSP inputs produced in China and further processed in Malaysia before being exported to the United States meet this description. We are seeking to determine whether in-scope QSP or QSP inputs leave China and undergo minor processing in Malaysia before being exported to the United States. If the Chinese-origin, in-scope merchandise that undergoes minor processing in Malaysia results in merchandise that still corresponds to the description of in-scope merchandise outlined in the *Orders*, Commerce will find that the merchandise meeting the scope description is covered by the *Orders*. For those products for which Commerce finds that the merchandise is covered by the *Orders*, Commerce may rescind the circumvention inquiry, pursuant to 19 CFR 351.226(f)(6).

## (2) Available Information Also Supports Initiation of a Circumvention Inquiry

Based on available information, we also determine the initiation of a circumvention inquiry is warranted to determine whether certain imports of QSP, completed in Malaysia using certain QSP inputs manufactured in China, are circumventing the *Orders*.<sup>8</sup> Commerce

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<sup>8</sup> See Initiation Memo. As explained in the Initiation Memo, the available information supports initiating this circumvention inquiry on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts supported initiation on a country-wide basis. See, e.g., *Oil Country Tubular Goods from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping and Countervailing Duty Orders*, 85 FR 71877, 71878-79 (November 12, 2020); *Stainless Steel Sheet and Strip from the People's Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping and Countervailing Duty Orders*, 85 FR 29401, 29402 (May 15, 2020); *Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 FR 43585 (August 21, 2019); see also *Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

has made this determination in accordance with its analysis of the factors set forth in section 781(b) of the Act and 19 CFR 351.226(i).<sup>9</sup>

Commerce has determined that it is appropriate to first determine whether the merchandise is covered by the scope of the *Orders* through a scope inquiry, before considering whether the merchandise is circumventing the *Orders*. Accordingly, Commerce will initially conduct its scope inquiry of the merchandise at issue, and then once it has made a determination as to the scope coverage status of the merchandise, it will determine whether to continue with the circumvention inquiry. If Commerce determines QSP or QSP inputs leaving China that are not covered by the scope of the *Orders* undergo further processing in Malaysia and this further processing consequently results in the production of in-scope merchandise, this merchandise would be subject to the scope of the *Orders*. Under that scenario, Commerce may apply its scope determination, in accordance with 19 CFR 351.225(m)(1), on a producer-specific, exporter-specific, or importer-specific basis, or on country-wide basis, regardless of the producer, exporter or importer of the products being exported from Malaysia to the United States.

If Commerce determines that QSP or QSP inputs completed in Malaysia and exported to the United States are not covered by the scope of the *Orders*, in whole or in part, Commerce may then determine to immediately continue with the circumvention inquiry of that merchandise. If as a result of a circumvention inquiry Commerce determines that the products subject to the inquiry are circumventing the *Orders*, then in accordance with 19 CFR 351.226(m)(1), Commerce may apply its determination on a producer-specific, exporter-specific, or importer specific basis, or on a country-wide basis, regardless of the producer, exporter or importer of the products being exported from Malaysia to the United States.

Pursuant to 19 CFR 351.226(f)(7), Commerce may “alter or extend” time limits under the circumvention inquiry as necessary to make certain all parties to each or both segments of the

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<sup>9</sup> See Initiation Memo.

proceeding are able to file comments and factual information, as necessary.

### Suspension of Liquidation

#### (1) Scope Inquiry

Pursuant to 19 CFR 351.225(l)(1), when Commerce self-initiates a scope inquiry under 19 CFR 351.225(b), Commerce will notify CBP of the initiation and direct CBP to continue the suspension of liquidation of entries of products subject to the scope inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be covered by the scope of the order. Accordingly, Commerce will notify CBP of the initiation of the scope inquiry and direct CBP to continue to suspend (unliquidated) entries of the products subject to the scope inquiry that were already subject to the suspension of liquidation. In addition, Commerce will direct CBP to apply the cash deposit rate that would be applicable if the products were determined to be covered by the scope of the *Orders*.

Should Commerce issue preliminary or final scope rulings, Commerce will follow the suspension of liquidation rules under 19 CFR 351.225(l)(2)-(4). In the event that Commerce issues preliminary or final scope rulings that the products are covered by the scope of the *Orders*, Commerce will instruct CBP to continue the suspension of liquidation of previously suspended entries and to apply the applicable cash deposit rate. Commerce will also instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, on or after the date of initiation of the scope inquiry pursuant to paragraphs (l)(2)(ii) and (l)(3)(ii). In addition, pursuant to paragraphs (l)(2)(iii)(A) and (l)(3)(iii)(A), Commerce normally will instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, prior to the date of initiation of the scope inquiry, but not for such entries prior to November 4, 2021, the effective

date of these provisions in the *Final Rule*.<sup>10</sup> These rules will not affect CBP's authority to take any additional action with respect to the suspension of liquidation or related measures for these entries, as stated in 19 CFR 351.225(l)(5).

## (2) Circumvention Inquiry

Pursuant to 19 CFR 351.226(l)(1), when Commerce self-initiates a circumvention inquiry under 19 CFR 351.226(b), Commerce will notify CBP of the initiation and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be circumventing the order. Accordingly, Commerce will notify CBP of the initiation of the circumvention inquiry and direct CBP to continue to suspend (unliquidated) entries of the products subject to the circumvention inquiry that were already subject to the suspension of liquidation. In addition, Commerce will direct CBP to apply the cash deposit rate that would be applicable if the products were determined to be circumventing the *Orders*.

Should Commerce issue preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)-(4). In the event that Commerce issues affirmative preliminary or final circumvention determinations that the products are circumventing the *Orders*, Commerce will instruct CBP to continue the suspension of liquidation of previously suspended entries and to apply the applicable cash deposit rate. Commerce will also instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the notice of initiation of the circumvention inquiry pursuant to paragraphs (l)(2)(ii) and (l)(3)(ii). In addition, pursuant to paragraphs (l)(2)(iii)(A) and (l)(3)(iii)(A), Commerce may instruct CBP to begin the suspension

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<sup>10</sup> See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300, 52327 (September 20, 2021) (*Final Rule*).



of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, prior to the date of initiation of the circumvention inquiry, but not for such entries prior to November 4, 2021, the effective date of these provisions in the *Final Rule*.<sup>11</sup> These rules will not affect CBP's authority to take any additional action with respect to the suspension of liquidation or related measures for these entries, as stated in 19 CFR 351.226(l)(5).

#### Notification to Interested Parties

In accordance with sections 19 CFR 351.225(b) and 351.226(b), and 781(b) of the Act, Commerce determines that available information supports initiating both scope and circumvention inquiries to determine whether certain imports of QSP, completed in and exported from Malaysia using certain QSP inputs manufactured in China, are subject to or circumventing the *Orders*. Accordingly, Commerce is notifying all interested parties of the initiation of scope and circumvention inquiries. In addition, we have included a description of the products that are the subject of these inquiries, and an explanation of the reasons for Commerce's decision to initiate these inquiries as provided above and in the accompanying Initiation Memo. Pursuant to 19 CFR 351.225(e)(3) and 351.226(e)(3), due to the interrelated nature of the scope and circumvention inquiries, Commerce is aligning the deadlines for the scope inquiry with the circumvention inquiry and will conduct the scope inquiry first for the reasons explained above.

Pursuant to 19 CFR 351.225(f)(1), interested parties have until March 2, 2022, to submit one set of comments and factual information addressing the self-initiation of the scope inquiry. Under 19 CFR 351.225(l)(2)(iii)(B) and (l)(3)(iii)(B), interested parties may timely request that Commerce adopt an alternative date to begin the suspension of liquidation and application of cash deposits under paragraphs (l)(2)(ii)(A) and (l)(3)(iii)(A). A request for Commerce to adopt an alternative date must be based on a specific argument supported by evidence establishing the

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<sup>11</sup> *Id.*, 86 FR at 52345.

appropriateness of that alternative date.<sup>12</sup> If parties wish to make such a request, that request must be included with the set of comments and factual information submitted to Commerce pursuant to 19 CFR 351.225(f)(1).

Interested parties will then have until March 16, 2022 to submit comments and factual information to rebut, clarify, or correct factual information submitted by the other interested parties (including rebuttal in response to any requests made under 19 CFR 351.225(l)(2)(iii)(B) and (l)(3)(iii)(B)). At this time, we are not soliciting or accepting comments on the self-initiation of the circumvention inquiry. Should Commerce determine to proceed with the circumvention inquiry after finalizing its scope determination, Commerce will notify interested parties on the segment-specific service list of an opportunity to comment.

In accordance with section 19 CFR 351.225(e), unless the scope inquiry is rescinded, in whole or in part, Commerce intends to issue its final scope ruling within 120 days after the date on which the scope inquiry was initiated. Furthermore, in accordance with section 781(f) of the Act and 19 CFR 351.226(e)(2), unless the circumvention inquiry is rescinded, in whole or in part, Commerce intends to issue its final circumvention determination within 300 days from the date of publication of the notice of initiation of a circumvention inquiry in the *Federal Register*.

This notice is published in accordance with 19 CFR 351.225(b) and 351.226(b) and section 781(b) of the Act.

Dated: January 31, 2022.

**Lisa W. Wang,**  
*Assistant Secretary for Enforcement and Compliance.*

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<sup>12</sup> See *Final Rule*, 86 FR 52326-29, for further information.

## Appendix

### Scope of the *Orders*

The scope of the orders covers certain quartz surface products. Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.*, quartz, quartz powder, cristobalite) as well as a resin binder (*e.g.*, an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the orders. However, the scope of the orders only includes products where the silica content is greater than any other single material, by actual weight.

Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of the orders includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of the orders includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by the orders whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

In addition, quartz surface products are covered by the orders whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope. Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the quartz surface products.

The scope of the orders does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the orders are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) The crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than one centimeter wide as measured at their widest cross-section (glass pieces); and (4) the distance between any single glass piece and the closest separate glass piece does not exceed three inches.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.10. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the orders is dispositive.

If we determine that all relevant QSP is subject to the China Orders, then further analysis under section 781(b) of the Act may be unnecessary and the circumvention inquiry may be rescinded.

